

IN CLOSING.....

Thanks to all of you who came to our public meetings, who wrote letters, and who have spoken to us personally. A summary of the meeting results, written comments we have received subsequent to the meetings and the **Ainsworth Bulletins** can be viewed online from the Nebraska-Kansas Area Office (NKAO) link at www.usbr.gov/gp/.

If you have questions or comments , or wish to be added to the mailing list contact Judy O’Sullivan, NKAO Public Involvement Specialist, at PO Box 1607, Grand Island, NE 68802, or by email at josulliv@gp.usbr.gov.

Name and Address (Optional)_____

Comments:_____

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Ainsworth Unit Bulletin

Newsletter for the Ainsworth Irrigation District Title Transfer Process

Bureau of Reclamation Nebraska-Kansas Area Office July 2003

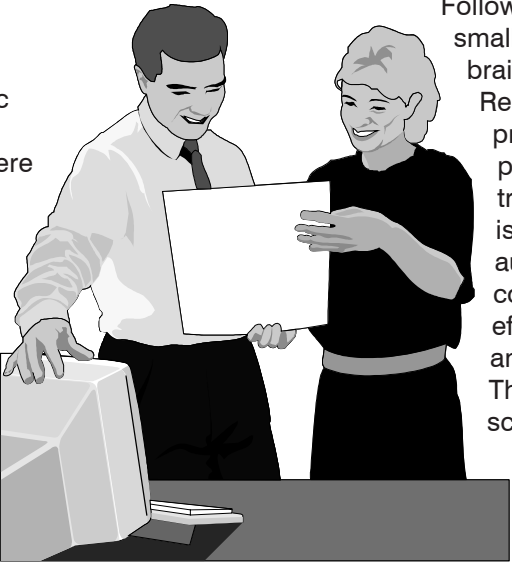
WELCOME TO THE SECOND EDITION

This is the second edition of the **Ainsworth Unit Bulletin**, a newsletter designed to provide information on the proposed title transfer and to maintain frequent and timely contact with you – our interested publics. As outlined in the initial **Ainsworth Unit Bulletin**, the Bureau of Reclamation (Reclamation) is working on a request from the Ainsworth Irrigation District (AID) to evaluate the feasibility of transferring ownership of all Ainsworth Unit project facilities from the federal government to the AID.

Throughout the title transfer evaluation, we want to keep an open, clear, and two-way communication channel with you. This newsletter will provide you with information of ongoing activities as well as progress updates and discussion of issues which surface as we study the feasibility of title transfer. Some of the information may produce new questions or the demand for more detailed information. To accommodate busy lifestyles and encourage reading of the publication, we will be brief and concise. However, your questions need not be. Please use the opportunity this newsletter provides to share your ideas and concerns with us throughout the process, by filling out and returning the comment form on the back.

TITLE TRANSFER - PUBLIC SCOPING MEETINGS

The Bureau of Reclamation held public scoping meetings in Ainsworth and Valentine on April 23 and 24th which were attended by over 150 interested persons. The purpose of these Reclamation meetings was to ask for help from local citizens and other interested persons to identify environmental issues and data concerning a possible title transfer. Reclamation is required by law to evaluate and disclose to the public the effects of the proposed action and to identify a range of reasonable alternatives. The process is outlined in the National Environmental Policy



Act (NEPA). The act states that because title transfer would be a major federal action and the proposed transfer to non-federal ownership could have potentially significant impacts on the public, Reclamation must conduct a study. Because the title to project facilities and lands is currently held by the United States, title transfer would require that specific legislation be introduced and passed before the transfer could be completed.

At the meetings the NEPA process, as well as ongoing data collection, were covered by Jill Manning, a natural resource specialist at Reclamation’s Grand Island office, who leads the title transfer team. She also outlined the process for completing environmental documents such as an Environmental Assessment (EA) and an Environmental Impact Statement (EIS). Because the NEPA processes are very detailed and complex, Reclamation provided flow charts at the meetings to supplement the presentation and serve as a reference sheet as we work through the NEPA process. At this time, Reclamation has not collected sufficient data to determine whether an EA or EIS will be required. Reclamation will oversee the preparation of, and give final approval to, the environmental document which is being developed by Ecosystem Research Institute (ERI), a private contractor employed by the AID.

PUBLIC INPUT GATHERED

Following the NEPA presentation, we formed small groups and used a technique known as brainstorming to gather public input. Reclamation’s meetings were held primarily to gather input concerning potential environmental effects of the transfer. However, because Reclamation is committed to protecting all project authorized purposes, and in consideration of making the most effective use of your time, we welcomed and recorded any and all comments. Those comments outside Reclamation’s scope to address in the environmental document have been forwarded to the attention of the AID. A listing of all the comments is available on the Nebraska-Kansas Area Office link at www.usbr.gov/gp/.

- The general categories of comments included:
- 1. Liability
 - 2. Protection of recreational interests
 - 3. Cost of transfer and repayment
 - 4. Oversight of District after transfer
 - 5. Water rights and future costs
 - 6. Nebraska Game & Parks Commission lease/role after transfer
 - 7. Water Levels
 - 8. Water sales and hydropower
 - 9. Public access after transfer
 - 10. Any land development by the District
 - 11. Land use and taxes
 - 12. Cherry County issues

ACRONYM KEY

AID – Ainsworth Irrigation District
NEPA – National Environmental Policy Act
NGPC or Commission – Nebraska Game & Parks Commission
NKAO – Nebraska Kansas Area Office
Framework - Framework for the Transfer of Title (Framework) developed August 7, 1995



RECLAMATION RESPONDS TO PUBLIC INPUT

1. What are the criteria for (title transfer)? Why does Reclamation want to sell their rights to the Irrigation District? What is each side (Reclamation and the AID) looking at gaining and losing from the title transfer? What are the pros and cons of title transfer for Reclamation and the AID? What role will the USBR have if the title transfer is completed?

Since Reclamation was founded in 1902 it has constructed hundreds of projects throughout the 17 western states to store and deliver irrigation water. If constructed today and located in other parts of the country, many of these public utility facilities would likely be owned, operated, and funded by publicly regulated private corporations or local government agencies.

For the past several years, Reclamation has been undertaking an effort to transfer title of facilities that could be effectively and efficiently managed by non-Federal entities and that are not identified as having national importance. Since 1996, Reclamation has transferred 13 projects or parts of projects, in the 17 western states and is currently implementing transfer legislation for three additional projects.

Reclamation’s *Framework for the Transfer of Title* (Framework) developed August 7, 1995, references general guidelines for determining projects eligible for

transfer. The following major criteria must be met before any project is transferred:

- a. The Federal Treasury, and thereby the taxpayer’s financial interests, must be protected.
- b. There must be compliance with all applicable State and Federal laws.
- c. Interstate compacts and agreements must be protected.
- d. The Secretary of the Interior’s Native American trust responsibilities must be met.
- e. Treaty obligations and international agreements must be fulfilled.
- f. The public aspects of the project must be protected.

If title transfer is completed, Reclamation will no longer have an interest in, or oversight of, the lands and facilities of the project. The transfer of title would divest Reclamation of the responsibility for the operation, maintenance, management, regulation of, and liability for the project.

2. Who can potentially be a title transfer “ownership” candidate (state, county, any municipality)? Does the AID have the sole rights to title transfer of the project, or could some other entity take title? Why can’t Cherry County get title?

As stated in the Framework : (1) Reclamation’s intent is to transfer projects to current beneficiaries, including non-Federal governmental entities, or to entities approved by the current beneficiaries. (2) All transfers must have the consent of other project beneficiaries. If another beneficiary raises substantive objections that cannot be resolved, the project will remain in Federal ownership. (3) Potential transferees must be competent to manage the project and be willing and able to fulfill all legal obligations associated with taking ownership of that project, including compliance with Federal, State, and tribal laws that apply to facilities in private ownership. In addition, they must assume full liability for all matters associated with ownership and operation of the transferred facilities. Potential transferees must be able to demonstrate the technical capability to maintain project safety on a permanent basis and an ability to meet financial obligations associated with the project. The AID, a project beneficiary, has requested that title to the project be transferred to them.

3. Who is paying for the cost of the facilities now? The original cost of the project was paid entirely by Federal appropriations. The AID entered into a contract with Reclamation for water service and the construction of a distribution system in 1956. Under that contract, the AID continues to make payments to Reclamation for the cost of the project under that contract. Reclamation receives no other payments for the use or benefits of the project.

29. If the Irrigation District operates under specific Federal guidelines, will they apply after transfer? Who will the District have to answer to? Where will the checks and balances come from?

The transfer of title would divest Reclamation of the responsibility for the operation, maintenance, management, regulation of, and liability for the project. Federal agencies (other than Reclamation, State, and local authorized regulatory agencies) will be responsible for oversight of the program facilities to the extent their programs allow.

30. How did Middle Loup title transfer affect farmers? This question should be directed to the Middle Loup District. Reclamation has no information concerning any change in district policies, assessments, operation and maintenance costs or other issues that may have affected the irrigators as a result of title transfer.

31. Timing of transfer – When? In general, title transfer will proceed as outlined in Reclamation’s Framework document, which can be viewed from the NKAO link at www.usbr.gov/gp/. The transfer process encompasses many activities including determining the base value of facilities, soliciting and addressing public issues, and considering the potential effects of a transfer on the environment. Following this, if title transfer is found to be feasible and meets the criteria in the Framework document, an agreement will be negotiated between AID and Reclamation and the appropriate legislation pursued to authorize the transfer.

Reclamation is proceeding with required NEPA related activities. Legislation authorizing transfer would still be required before title could be conveyed. The legislative process is outside the control of Reclamation, therefore we cannot provide a time estimate for completion of the process.

32. Concern that title transfer could impact access to public facilities at Merritt Reservoir. The District has indicated that it has no intent of developing project lands around Merritt Reservoir and that there would be no change in public access and use at Merritt. Reclamation’s Framework states that the public values and third party interests must be protected before any project is transferred. Prior to any transfer, the AID would execute contracts with NGPC, county, state and local governments for the purpose of ensuring continued public access to the recreation facilities and wildlife lands at Merritt Reservoir.

33. Concern that transfer from Federal ownership could result in water quality impacts for recreational purposes. The Nebraska Department of Environmental Quality’s Surface Water Unit collects physical, chemical, and biological water quality samples from streams and lakes

throughout the state on a rotating basis. During a five-year cycle, all 13 river basins in the state are monitored. This data is used to document existing water quality conditions, assess the support of beneficial uses (such as recreation, aquatic life, public drinking water supply), and prioritize water quality problems. This monitoring program would continue if title should transfer.

34. Will title transfer effect any future usages such as hydroelectric power, shipping out of water – or what if farming conditions change, or there are other future changes? If hydropower is added to the project, will the District receive all the benefits?

If the project remains in Federal ownership, any changes to project operations, outside of routine operation, maintenance and replacement, would need to be reviewed, coordinated with, and/or approved by Reclamation. Also under Federal ownership, any hydropower development would require consultation with Reclamation.

TECHNICAL MEETING

Reclamation hosted a meeting on May 8th in Ainsworth attended by federal, state, and other technical disciplines associated with, or potentially impacted by, the potential transfer. The meeting was held to identify: (1) environmental issues that exist within the Niobrara River Basin, (2) available resource information, (3) data gaps, and (4) other resource agencies that should be involved in the NEPA process. This information will assist Reclamation in developing a reasonable range of alternatives which will then be evaluated in the NEPA document. The summary of the comments from the meeting are located at the web site discussed above.



NOTES FROM FRED ORE NEBRASKA-KANSAS AREA OFFICE MANAGER

The AID has stated its intent to seek transfer of ownership. Within the guidelines set forth in established policy, Reclamation has entered into an agreement with AID to study the feasibility of ownership transfer. Reclamation’s process allows an unspecified amount of time to evaluate transfer feasibility. Reclamation is proceeding in a manner that recognizes all interests. “I assure you,” said Ore, “that any recommendation Reclamation makes in regards to the feasibility of transfer will be based on protecting public interests and preserving the federal investment.”

22. Does title transfer change or limit access to Federal funding for improvements & maintenance? How is funding handled now? (District or Federal funds?) Who will be financially responsible for the maintenance upkeep on Merritt Dam?

As stated in the Framework: (1) The transfer of title will divest Reclamation of the responsibility for the operation, maintenance, management, regulation of, and liability for the project. The transfer of title to a project will, in effect, sever Reclamation's ties with that project. (2) No transferred Federal asset will be considered for federal assistance for project operation, maintenance, and replacement or capital construction purposes following completion of the transfer. However, the AID, as a non-federal entity, would have the same opportunities as any other non-federal entity to apply for federal assistance.

Currently, the AID operates and maintains the project facilities, at their own cost. If title transfers to the AID, they would continue to be responsible for the maintenance on Merritt Dam.

23. If title is transferred, who has liability if something happens to the facilities? Who will be liable for repairs and associated expenses? Concern for liability issues related to the Merritt Dam structure in worse case scenario (dam failure).

As stated in the Framework: The potential transferees must be competent to manage the project and be willing and able to fulfill all legal obligations associated with taking ownership of that project, including - - - assumption of full liability for all matters associated with ownership and operation of the transferred facilities.

Specific language would be included in title transfer legislation and conveyance documents limiting the United States liability for damages of any kind arising out of any act, omission, or occurrence based on its prior ownership or operation of the assets. After transfer, all operation and maintenance activities will be the responsibility of the District.

24. Who is responsible for maintaining the integrity of the dam and will this change with title transfer? Inspections - after transfer will they continue? Who pays for these inspections?

Reclamation currently owns all features, facilities, and lands and has oversight responsibilities including the monitoring and evaluation of the dam under Reclamation's Safety of Dams Program. Any structural repairs that fall within the definition of normal operation and maintenance are the responsibility of the AID. Under current law and policy, if repairs are required under a Safety of Dams requirement, the AID would repay a portion of the costs. If the facilities are transferred, the Nebraska Department of Natural Resources will assume oversight/regulatory responsibility for the safety of dams

program and the District would comply with the state's regulations and policies for operations and dam safety activities. Required inspections and evaluation of instrumentation and operational data would be the District's responsibility.

25. Are there required river releases from the dam?! Currently there are no "required" river releases from the reservoir. The District has stated that there would be no change in future operations if title were transferred. The AID does make some releases to the river to help maintain/support the existing fisheries below Merritt Dam.

26. How low can the Reservoir be drawn down? Increased draw-downs will impact fisheries and increase shoreline erosion. Will the timing of water releases (rate and amount) be managed to protect the trout fishery below the dam?

The top of conservation pool, when the reservoir is considered to be full, is at water surface elevation 2946.0 ft. msl. The District has a contractual right to release water for irrigation purposes down to the top of the dead storage pool at elevation 2875.0 ft msl. Reservoir releases will be made according to Nebraska water law, which is administered by the Nebraska Department of Natural Resources.

The District has stated that there would be no change in future operations if title were transferred. It is not expected that shoreline erosion would increase under District ownership. The AID has indicated that they will work with trout organizations to help protect the trout fishery in the Snake River when possible.

27. Will the storage rights transfer and if so can they be pre-empted?

At this time the storage and storage use rights are held by Reclamation. If title transfer occurs, the storage and storage use rights would be transferred to the District. Based on Nebraska state water rights law, it is doubtful that a situation could occur where an entity other than Reclamation or the District would hold these rights.

28. Does this give AID water rights and how far up the river would it go? Concerned about the transfer of water rights from public to private.

Federal Reclamation Law requires that Reclamation comply with State water law. In Nebraska there are three types of water rights related to irrigation: 1) natural flow rights, 2) storage rights, and 3) storage-use rights. At Merritt Reservoir, Reclamation holds the storage and storage-use rights and AID holds the natural flow rights. If title transfers, the water rights held by Reclamation would be transferred to the AID using procedures established by the Nebraska Department of Natural Resources. The administration of these rights by the State of Nebraska will be the same regardless of who holds them.

4. What does the District pay for water now?

The water service contract provides for an annual payment of \$167,500 for construction costs; operation and maintenance of the project by the AID; and the storage and delivery of irrigation water to the District. As part of the terms of the contract, the District receives 1.38 acre feet of water for each irrigable acre in the District plus conveyance and operational losses. If water is delivered to the District in excess of the 1.38 acre feet per acre it is purchased by the District at the rate of \$1.00 per acre foot.

5. Was the original purpose of the dam strictly irrigation or was it multipurpose? What is the #1 priority for the use of Merritt Reservoir water?

The Merritt Reservoir provides a full water supply to irrigate 33,960 acres of land in the AID. Although essentially a single-purpose irrigation project (there is no flood control component), additional benefits accrue from recreation, fish and wildlife, and water quality control.

6. Need the local newspapers to put in notice of meetings, at an earlier date. Not enough advance notice for the public involvement process. People who could be affected by title transfer are not being involved (eastern public center). Failure of public involvement would impact economy of the source.

Involving interested publics, advising them of public forum opportunities and keeping them in the information loop is very important to Reclamation. Notices of the April 23 and 24, 2003 meetings were sent to the following media on April 4, 2003: KBRB-AM/FM, Ainsworth Star Journal, KINI-FM, KVSH-AM, Valentine Midland News, and Rock County Leader. It is at their discretion whether or not they publish the information. If there are any other media sources or public areas where you would like to see the notices displayed we would be happy to do that. Please contact Judy O'Sullivan, NKAO public involvement specialist at josullivan@gp.usbr.gov or by mail at the Bureau of Reclamation, PO Box 1607, Grand Island, NE 68802.

7. Need to bring people up to date on the project and its history. This should have been included as part of the introduction at the Ainsworth Scoping Meetings. Main source of information is from the AID. Reclamation should be providing information.

Prior to the initial scoping meetings on April 23 and 24, 2003, Reclamation put together a mailing list of potential interested publics, organizations, etc. We developed a bulletin containing information on the facilities to be transferred, general background on title transfer, the basics of NEPA process, notice of the upcoming meetings, and a section for public input. The bulletin was mailed to over 250 individuals, agencies, and organizations prior to the meetings. In addition, copies were made available at the public meetings.

Reclamation gathered almost 200 comments, questions, and concerns from those in attendance. These comments, as well as other title transfer information, are available on the Nebraska-Kansas Area Office (NKAO) link at www.usbr.gov/gp/. At the meetings, there was also the opportunity to sign up for future updates on the proposed title transfer, such as this bulletin. In this issue of the **Ainsworth Unit Bulletin** we are responding to a number of the questions that were raised at the April meetings.

Reclamation continues to receive written comments on the proposed transfer, which are also on the above web site. If you know someone who would like to be added to our mailing list they should contact NKAO's Public Involvement Specialist Judy O'Sullivan at josullivan@gp.usbr.gov or by mail at the Bureau of Reclamation, PO Box 1607, Grand Island, NE 68802.

8. When will Reclamation hold general informational meetings as to the results of the transfer meetings? "A.k.a." a follow-up meeting likes this to explain the transfer process and its effect on adjoining landowners and resources, so the public can come forth with concerns.

At this time there are no further public meetings planned as part of the NEPA process. Information will continue to be provided as described in # 7 above.

9. How will the value of the project be calculated? Fair market value of facilities and lands being transferred? What is the cost for title transfer and how is this cost determined? Has a cost/benefit analysis been conducted? How does the repayment process work? What money is out there to pay, and who pays?

As stated in the Framework, the financial interests of the Government and general taxpayers will be protected. Transferees must agree to fair and equitable terms based upon the factual circumstances associated with each project. Transferees will be expected to pay the estimated transaction costs in advance, such as costs associated with NEPA compliance and real estate boundary surveys. Reclamation will not provide new loans in order to finance transfers.

The value of the project is determined by calculating the base value and making any necessary adjustments to that value according to terms agreed upon during negotiations. The base value of a facility proposed for transfer is defined as the value of the assets being transferred (including facilities, lands, and other related assets) as if they were under continued Federal control. The base value is calculated as the net present worth of the United States' revenue streams, discounted using Treasury yield rates current at the time of the transaction. The negotiated price for the project may deviate up or down from the base value. Adjustments to the base value would be based on the reasonable expectation that conditions will be altered in the foreseeable future after

title is transferred compared with the conditions prior to the transfer.

If transfer occurs, the repayment process, or payment by the District to the United States will be paid at the time of the actual transfer – when the project is deeded and conveyed to the District. A common method used by a District to fund the purchase price is through bonded indebtedness on the private market. The bonded indebtedness is then paid off by the District in future years by assessments made on District lands.

10. Is there debt on the dam - if so, how much? Does the debt stay with the Federal Government? Will the District's debt be wiped off if title transfer occurs? Will the project be transferred free of debt? Without title transfer when would the dam be paid off?

The original cost of the project was approximately \$26 million, of which AID has repaid approximately \$4.4 million. If title transfers it would require the payment of all outstanding repayment obligations from both the District and Western Area Power Administration (WAPA) at the time of transfer.

Without title transfer, the remaining debt would be paid by the District and out of the receipts from the sale of power from the Pick-Sloan Missouri Basin Program collected by the WAPA. Without title transfer, the payment through WAPA would begin in the late 2030's or early 2040's. If title transfer is not accomplished, it would be necessary for the District to enter into a new contract with Reclamation, or renew their existing contract.

11. The irrigators paid for it so they should own it. The Federal Government should be happy to get rid of it and the expense. Irrigation District does not realize full worth to taxpayers who did initial funding. Taken from private, then developed at taxpayers expense, and now (title transfer) transferred to other private entity.

Congressional legislation authorized the construction of the project. Congress appropriated funds to design, acquire lands, and construct the Ainsworth Unit. The property needed for project purposes was purchased at fair market value. Federal legislation would be necessary to transfer the project facilities to the AID. Reclamation's framework document states that the financial interests of the Government and taxpayers interests must be protected. The base value of the facilities will be calculated as specified in the framework document (see # 9).

12. If title transfer occurs, what type of deed will Reclamation give to the AID (general, quitclaim, warranty)?

We anticipate that the conveyance of title from the United States to the AID would be by Quit Claim Deed.

13. Are any in lieu of taxes paid now to Cherry County, or will there be? Will there be any changes in land taxes and tax base in Cherry County? Does not assure Cherry County input for water originating and stored in Cherry County. Concern that there is a value to the water leaving Cherry County. Cherry County needs to be represented in the future in case title transfer is accomplished.

In lieu of taxes are currently being paid to Cherry County for Ainsworth Unit lands acquired by the United States for the project. If title transfers, these payments would not be made by the United States for the Ainsworth Unit lands. The Ainsworth Unit lands acquired by the United States for the project are not currently taxed and as such are not part of the tax base for Cherry County. If title transfers, these lands would remain off the tax base, since an irrigation district in the State of Nebraska is a public entity exempt from paying real estate taxes. The origination and storage of water in Cherry County would not change with title transfer, and would remain subject to Nebraska water laws. The AID is formed under Nebraska Statutes. These statutes include provisions and requirements for Board of Director memberships. These statutes would still apply to the AID and remain unchanged with the transfer of title.

14. Will the tax structure change on federal lands transferred? How many Federal tax dollars were expended in 2002 to operate the AID? Who pays taxes for the project now, and who pays if title is transferred to AID? Will the land in the District go on the tax rolls if title transfer takes place?

(See # 13). No Federal tax dollars were expended in 2002 to operate the AID. The District will be meeting with the counties to discuss the discontinuation of in lieu of tax payments by the United States on acquired project lands if the project is transferred.

15. Who controls the surrounding grounds at the reservoir leased back out to the Nebraska Game and Parks Commission (Commission)? The Commission leases the land around the reservoir. If title transfer occurs, will that lease remain in effect? When does it expire? Can any of the provisions be changed? In the past, Reclamation has provided funding assistance to the Commission for weed control, fencing, chemicals – how will title transfer affect this assistance?

Reclamation acquired 6,992 acres at Merritt Reservoir for the dam, reservoir, and associated functions. In a "Lease Agreement Between the United States and the State of Nebraska Game, Forestation and Parks Commission" (Commission), dated April 20, 1964, the Commission assumed the responsibility of administering lands and facilities at all Reclamation projects in Nebraska for recreation, wildlife, and other purposes. This initial lease agreement, which included Merritt Reservoir, was in effect

for a period of 25 years and was renewed effective May 1, 1995. This lease will be in effect for a period of 25 years from the effective date.

If title is transferred to the AID, the lease agreement would be amended to remove those lands associated with Merritt Dam and Reservoir. All other provisions of the current lease agreement that apply to Reclamation projects in Nebraska would remain in force.

The District is suggesting that they enter into a separate agreement with the Commission to continue the public benefits of recreation and fish and wildlife protection.

If the project facilities and lands are transferred to the AID, the United States would no longer have a vested interest in these facilities and lands and would no longer provide any funding assistance to the Commission.

16. Will the AID be able to develop the land around the lake? Can Reclamation reduce the perimeter around the reservoir, and if so, could others buy for an inflated price, which raises taxes for all others in proximity? What happens to the real estate at the dam?

Currently, the land around Merritt Reservoir is owned by Reclamation. This property is managed by the Commission for recreation and wildlife purposes as specified in the Lease agreement between Reclamation and the Commission (see #15). If title transfer is not completed, there are no plans for Reclamation to dispose of any of its property at Merritt Reservoir.

Reclamation's Framework states that the public values and third party interests must be protected before any project is transferred. Prior to any transfer, the AID would execute contracts with NGPC, county, state and local governments for the purpose of ensuring continued public access to the recreation facilities and wildlife lands at Merritt Reservoir and prevent the privatization of existing resources.

17. What is the life expectancy of the dam? When the dam fills with silt, what happens? Are silt models run and are they accurate? Will the AID be responsible for the silting in of the dam? Will they do the dredging?

Merritt Reservoir was designed to store all the sediment that would accumulate in 100 years without seriously impairing the efficiency of any irrigation operations or other purposes of the project. The total estimated sediment accumulation in Merritt Reservoir after 100 years is 12,000 acre-feet.

As of June 2003, Reclamation completed an onsite sediment resurvey of Merritt Reservoir. The preliminary results will be available later this year which will indicate the present rate of deposition of sediment. With current

technology, there is a relatively high degree of accuracy associated with a resurvey to determine the amount and location of sediment accumulation.

Reclamation does not provide for any sediment removal at Merritt Reservoir and there are no provisions to include dredging in any potential transfer document with the AID. Dredging of a reservoir is typically not a practical method of sediment removal.

18 What kind of environmental impact would it take to negate this? If environmental compliance says no transfer, does it kill the deal?

The final decision on the proposed transfer will be based on a number of factors, as outlined in Reclamation's Framework. Environmental considerations, including compliance with State and Federal laws, protection of the public aspects of the Project, and mitigation of environmental effects, will play an important role in the decision-making process. The final decision will be reached after balancing all relevant considerations.

19. If the environmental document says title transfer is O.K., is authorization from Congress still required?

Yes. Reclamation currently does not have the authority to transfer title; therefore, legislation would still be required to execute the title transfer.

20. Think it should be an EIS - more public meetings and opportunity to comment throughout the process.

The Council on Environmental Quality defines "environmental assessment" as the basis for determining the preparation of either a Finding of No Significant Impact (FONSI) document or an environmental impact statement (EIS).

Reclamation conducted NEPA scoping meetings in Ainsworth and Valentine, Nebraska on April 23 and 24, 2003. Based on the comments that were received and issues that have been identified, Reclamation believes that an environmental assessment (EA) is the appropriate NEPA document to be prepared. A FONSI will be prepared if it is determined that the impacts associated with title transfer will not have a significant effect on the human environment. If, however, environmental impacts are determined to be significant then an EIS will be prepared.

21. Will title transfer change the susceptibility to the endangered species act, etc.?

At this time, Reclamation does not anticipate that title transfer would have an immediate or direct effect on threatened and endangered species or their habitat.